

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Helen and Steven Fu,

Case No.: \_\_\_\_\_

Plaintiffs,

vs.

Ebonie Owens,

and

**MEDCOR'S  
NOTICE OF REMOVAL**

Medcor, Inc. D/B/A Medcor-Target Clinic and  
Clinic Practice Management, PC,

and

Target Corporation D/B/A Medcor-Target  
Clinic and Clinic Practice Management, PC,

Defendants.

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Defendant Medcor, Inc. ("Medcor") hereby submits its Notice of Removal of the above-captioned action to the United States District Court, District of Minnesota. In support of its notice of removal of the above-captioned action from the State of Minnesota, District Court, County of Hennepin, Fourth Judicial District, Medcor states and avers as follows:

1. On or about February 11, 2008, Medcor received by U.S. mail one copy of a summons and complaint entitled *Helen and Steven Fu v. Ebonie Owens and Medcor, Inc. D/B/A Medcor-Target Clinic and Clinic Practice Management, PC and Target Corporation D/B/A Medcor-Target Clinic and Clinic Practice Management, PC*, venued in the State of Minnesota, County of Hennepin, Fourth Judicial District. Medcor did not

receive, nor did it return an Acknowledgment of Receipt of the Summons and Complaint. Medcor therefore disputes that proper service was accomplished and reserves the right to allege improper service of process as an affirmative defense in its Answer. A copy of the Summons and Complaint is attached hereto as Exhibit A.

2. Upon information and belief, Plaintiffs did not file their complaint with the court.

3. On February 25, 2008, Target Corporation served an Answer, venued in Hennepin County District Court, to Plaintiffs' Summons and Complaint by fax and U.S. mail. A copy of Target's Separate Answer is attached as Exhibit B.

4. On or around March 4, 2008, Defendants caused or will cause this action to be filed with the Hennepin County District Court, and provided or will provide that court with notice of removal of this action.

5. The above-captioned action is one which this court has original jurisdiction under the provisions of 28 U.S.C. § 1331 in that Plaintiffs allege a claim arising under the federal Americans with Disabilities Act (ADA), 42 U.S.C. section 12101 through 12117 (*see Plaintiff's Complaint at ¶30*).

6. Removal is proper under 28 U.S.C. §§1441(a) and 1446.

7. Co-defendant Target Corporation consents to the removal of this case to the United States District court of the District of Minnesota. A copy of Target's Consent to Removal is attached as Exhibit C.

8. Other than the summons and complaint attached as Exhibit A and the Separate Answer of Target Corporation attached as Exhibit B, Medcor is not aware that

any other pleadings have been served or filed. Specifically, upon information and belief, neither co-defendants Clinic Practice Management, PC nor Ebonie Owens have been served with process in this matter.

9. This notice of removal is being filed less than thirty (30) days after the first Defendant received a copy of the summons and complaint, and is therefore timely under 28 U.S.C. § 1446(b).

10. Medcor, Inc. has given written notice of this Notice of Removal to Plaintiffs and, promptly after filing of this Notice of Removal will cause a copy of this notice of removal to be filed with the state court.

11. For these reasons, this action may be removed to this Court under 28 U.S.C. §1446(a).

**WHEREFORE**, Defendants pray that the action currently pending in the State of Minnesota, County of Hennepin, Fourth Judicial District, and all further proceedings in this action be conducted in the United States District Court for the District of Minnesota as provided by law.

Dated: March 4, 2008

Debra L. Weiss

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Subscribed and sworn before me this  
Fourth day of February,  
2008.

Carla Christenson  
Notary Public

